IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1254 OF 2005

Pandurang Namdeo Jagtap ...Petitioner
vs.
State of Maharashtra & anr. ...Respondents

Ms Pooja Bhosale i/b Mr.Tejpal for the Petitioner
Mr.Anil Kshirsagar for the Respondent No.2
Ms M.H.Mhatre, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 27,2005

P.C.:

1. Rule. Learned A.P.P. waives service. The learned Advocate appearing for Respondent No.2 waives service. By consent taken up forthwith for final hearing.

2. The conviction of the Petitioner is under Section 279 of I.P.C. and is sentenced to pay fine of Rs.1000/-. The Petitioner has been also ordered to undergo R.I. for one month for offence punishable under Section 304 (A) and fine of Rs.2,000/-. It is not in dispute that the fine amounts have been paid by the Petitioner.

3. The Petitioner and Respondent No.2 have filed on record consent terms which record that the Petitioner has paid compensation of Rs.20,000/- to the Respondent No.2. The Respondent No.2 is the father of the victim of the accident. The consent terms are signed by the Petitioner and the Respondent No.2. The Respondent No.2 has recorded the receipt of amount of Rs.20,000/-. The prayer is made by the learned counsel for the Petitioner and the learned Counsel for the Respondent No.2 that sentence of undergoing imprisonment for

one month be quashed and set aside.

4. The Petitioner has paid a sum of Rs.20,000/- by way of compensation to the Respondent No.2. From order dated 27th April 2005 passed by this court it appears that after filing of this Writ Petition, the Petitioner lost his son in a road accident. The Petitioner has already undergone the sentence of imprisonment for two days.

5. Considering the concurrent findings as regards conviction, it cannot be set aside. However, the circumstances which are narrated above will have to be considered so far as sentence is considered. The Petitioner has not only paid the fine amount but also paid compensation to the Respondent No.2 of Rs.20,000/-. Therefore, substantive sentence awarded deserves to be reduced to the sentence which is already undergone by the Petitioner.

6. Hence I pass the following order :

i) Though the conviction of the Petitioner is confirmed, the sentence of imprisonment awarded is reduced to one which is already undergone by the Petitioner.

ii) The bail bond of the Petitioner is cancelled.

. Parties to act upon an authenticated copy of the order.

JUDGE